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By: **Delegate Harrison**

Introduced and read first time: March 8, 2004

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Property and Casualty Insurance Guaranty Corporation - Definition of**  
3                                   **"Covered Claim"**

4 FOR the purpose of altering the definition of "covered claim" to exclude certain claims  
5 filed with the Property and Casualty Insurance Guaranty Corporation after the  
6 earlier of a certain period of time after the date of the order of liquidation or a  
7 certain final date set by a court for filing certain claims; altering the definition  
8 of "covered claim" to exclude certain claims filed with the Corporation or a  
9 liquidator; providing for the applicability of this Act; and generally relating to  
10 claims filed with the Property and Casualty Insurance Guaranty Corporation.

11 BY repealing and reenacting, without amendments,  
12 Article - Insurance  
13 Section 9-301(a) and (c) and 9-306(a) and (b)  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume)

16 BY repealing and reenacting, with amendments,  
17 Article - Insurance  
18 Section 9-301(d)  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23                                   **Article - Insurance**

24 9-301.

25 (a) In this subtitle the following words have the meanings indicated.

26 (c) "Corporation" means the Property and Casualty Insurance Guaranty  
27 Corporation.

1 (d) (1) "Covered claim" means an insolvent insurer's unpaid obligation,  
2 including an unearned premium:

3 (i) that:

4 1. A. for insurance other than insurance that covers  
5 members of a purchasing group, arises out of a policy of the insolvent insurer issued  
6 to a resident or payable to a resident on behalf of an insured of the insolvent insurer;  
7 or

8 B. for insurance that covers members of a purchasing group,  
9 arises out of insurance that covers the members of the purchasing group to the extent  
10 that the insurance is obtained by the purchasing group, the insurance is written by an  
11 authorized insurer, and the claim is made by a person residing or located in the State;  
12 or

13 2. arises out of a surety bond issued by the insolvent insurer  
14 for the protection of a third party that is a resident;

15 (ii) that is presented on or before the last date fixed for the filing of  
16 claims in the domiciliary delinquency proceeding as a claim to the corporation or to  
17 the receiver in the State;

18 (iii) that:

19 1. except for a surety bond claim, was incurred or existed  
20 before, on, or within 30 days after the determination of insolvency; or

21 2. for a surety bond claim that arises out of a surety bond  
22 issued by a domestic insurer, was incurred or existed before, on, or within 18 months  
23 after the determination of insolvency, whether or not the surety bond is issued for no  
24 stated period or for a stated period; and

25 (iv) that arises out of a policy or surety bond of the insolvent insurer  
26 issued for a kind of insurance to which this subtitle applies.

27 (2) "Covered claim" does not include:

28 (i) an amount due a reinsurer, insurer, insurance pool, or  
29 underwriting association, as a subrogation recovery or otherwise; or

30 (ii) an amount due that arises out of insurance covering the  
31 members of a purchasing group if the insurance obtained by the purchasing group is  
32 written by an unauthorized insurer.

33 (3) (i) "Covered claim" does not include a first party claim by an  
34 insured whose net worth exceeds \$50,000,000 on December 31 of the year before the  
35 year in which the insurer becomes an insolvent insurer.

1 (ii) For purposes of this paragraph, the net worth of an insured is  
2 deemed to include the aggregate net worth of the insured and all of its subsidiaries  
3 calculated on a consolidated basis.

4 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,  
5 "COVERED CLAIM" DOES NOT INCLUDE:

6 (I) A CLAIM FILED WITH THE CORPORATION AFTER THE EARLIER  
7 OF:

8 1. 18 MONTHS AFTER THE DATE OF THE ORDER OF  
9 LIQUIDATION; OR

10 2. THE FINAL DATE SET BY THE COURT FOR THE FILING OF  
11 CLAIMS AGAINST THE LIQUIDATOR OR RECEIVER OF AN INSOLVENT INSURER; OR

12 (II) A CLAIM FILED WITH THE CORPORATION OR A LIQUIDATOR  
13 FOR PROTECTION AFFORDED UNDER THE INSURED'S POLICY FOR LOSSES THAT ARE  
14 INCURRED BUT NOT REPORTED.

15 9-306.

16 (a) (1) Except as to surety bonds, the Corporation shall be obligated to the  
17 extent of the covered claims existing on or before the determination of insolvency or  
18 arising:

19 (i) within 30 days after the determination of insolvency;

20 (ii) before the policy expiration date, if that date is less than 30  
21 days after the determination of insolvency; or

22 (iii) before the insured replaces the policy or causes its cancellation,  
23 if the insured does so within 30 days after the determination of insolvency.

24 (2) Except as provided in paragraph (3) of this subsection, the obligation  
25 of the Corporation under this subsection shall include only that amount of each  
26 covered claim that is in excess of \$100 and less than \$300,000.

27 (3) The Corporation shall pay the full amount of any covered claim  
28 arising out of a workers' compensation policy.

29 (4) The Corporation is not obligated to a policyholder or claimant in an  
30 amount in excess of the obligation of the insolvent insurer under the policy out of  
31 which the claim arises.

32 (b) (1) As to surety bonds, the Corporation shall be obligated to the extent of  
33 the covered claims existing on or before the determination of insolvency, or arising  
34 within 18 months after the determination of insolvency, whether or not the surety  
35 bonds are issued with no stated period or for a stated period.

1           (2)       The obligation of the Corporation under this subsection shall include  
2 only that amount of each covered claim payable to each claimant that is in excess of  
3 \$100 and less than \$300,000.

4           (3)       The Corporation is not liable for an aggregate amount in excess of  
5 \$1,000,000 under any one surety bond.

6           (4)       If the covered claims are in excess of \$1,000,000 under any one surety  
7 bond, the Corporation shall make a prorated payment on account of each covered  
8 claim in the ratio that the covered claim bears to the total amount of all covered  
9 claims under the surety bond.

10          (5)       The Corporation is not obligated to a claimant in an amount in excess  
11 of the obligation of the insolvent insurer under the surety bond out of which the claim  
12 arises.

13       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
14 to claims against insurers placed in liquidation on or after the effective date of this  
15 Act.

16       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 June 1, 2004.